

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 19 March 2003**

CASE NO: 2003-LCA-1

In the matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION  
Prosecuting Party

v.

COMPUTER-AIDED ENGINEERING TECHNOLOGY, INC.  
Respondent

**ORDER APPROVING SETTLEMENT AGREEMENT  
AND CONSENT FINDINGS**

This proceeding arises under the Immigration and Nationality Act of 1952, (hereinafter the "INA"), 8 U.S.C. §§ 1101, et seq., as amended by the Immigration and Nationality Act of 1990, P.L. 101-649, 104 Stat. 4978; the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, P.L. 102-232, 105 Stat. 1733; and the American Competitiveness and Workforce Improvement Act of 1998, ("ACWIA") P.L. 105-277, Oct. 21, 1998: 112 Stat. 2681 found at 8 U.S.C. § 1101, et seq, and 8 U.S.C. § 1101(a)(15)(H)(i)(b).

On September 24, 2002, the United States Department of Labor, Employment Standards Administration, Wage and Hour Division (hereinafter "Complainant") sent Computer-Aided Engineering Technology, Inc. (hereinafter "Respondent") a Determination letter alleging that Respondent violated 20 C.F.R. § 655.731 of the H-1B provisions of the INA by failing to (1) post notice of the filing of the Labor Condition Application(s) (hereinafter the "LCA), (2) pay the required wage rate for non-productive time and (3) pay the required wage rate by taking illegal deductions.

On October 8, 2002, Respondent made a request for a formal hearing, challenging the Administrator's determination that it failed to pay the required wage rate by taking illegal deductions but not contesting the alleged violations relating to the failure to post and failure to pay the required wage rate for non-productive time. The parties subsequently entered into negotiations designed to solve this matter amicably. Thereafter, this Court received a Settlement Agreement and Consent Findings (hereinafter "Settlement Agreement") on March 14, 2003.

By way of this Settlement Agreement, the parties state that they desire to avoid further

litigation or controversy which may exist as a result of the Prosecuting Party's investigation. They further state that the Settlement Agreement resolves all issues raised by the Administrator's Determination Letter. In summary, the terms of the Settlement Agreement are as follows:

- (1) Pursuant to 29 C.F.R. § 18.9, the parties agree and stipulate to the approval of the Settlement Agreement and Consent Findings and an entry of an Order which resolves the matter in accordance with the terms and conditions provided in the Settlement Agreement.
- (2) The Order Approving the Settlement Agreement shall have the same force and effect as an Order made after a full hearing.
- (3) The entire record shall consist of the Administrator's Determination Letter and its subsequent amendments.
- (4) The parties waive any further procedural steps before the Office of Administrative Law Judges and the Benefits Review Board.
- (5) The parties waive the right to contest the validity of the Settlement Agreement and Order Approving the Settlement Agreement.
- (6) All allegations of violations of the Determination Letter shall be deemed fully resolved by the Settlement Agreement with regard to the individuals listed in the document connected to the Settlement Agreement entitled "Attachment A."
- (7) The Settlement Agreement shall become final and effective immediately upon the undersigned's approval.
- (8) With the exception of Shashikanth Rangaraju, Respondent agrees to pay the amount of (\$14,215.00) fourteen thousand two-hundred and fifteen dollars in back wages within (30) days of the issuance of this order to the H-1B non-immigrants identified in Attachment A which is incorporated by reference into the Settlement Agreement.
- (9) The provisions of the Settlement Agreement relating to back pay of wages shall be deemed satisfied when Respondent delivers via certified mail to the United States Department of Labor, Employment Standards Administration, Wage and Hour Division, 211 W. Fort Street, Room 1317, Detroit Michigan 48226, a schedule of employees which is described below and a check in the non-taxable amounts set forth in Attachment A and made payable to the employee or Wage-Hour Division/ U.S. Department

of Labor.

- (10) Respondent agrees to provide Complainant with a schedule that includes the name, last known address, and social security number of each known employee for whom back wages are due.
- (11) Respondent agrees to deposit any monies which have not been disbursed to employees or their personal representatives after (3) years into the treasury of the United States as miscellaneous receipts.
- (12) Respondent and all of Respondent's agents, servants, employees, and all persons in active concert or participation with them also agree not to request, solicit, suggest, or coerce, directly or indirectly, any employee to return or to offer to return to Respondent or to someone else for Respondent any monies for wages previously due, become due in the future to an employee under the Settlement Agreement or the INA.
- (13) Respondent and all of Respondent's agents, servants, employees, and all persons in active concert or participation with them also agree not accept or receive from any employee, directly or indirectly, any employee any monies for wages paid to the said employee under the provisions of the Settlement Agreement or the INA.
- (14) Respondent agrees that it shall not discharge or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against an employee because an employee received or retained money due to him under the Settlement Agreement or the INA.
- (15) The parties agree that the settlement agreement resolves all issues raised by the Administrator's September 24, 2002 Determination Letter.
- (16) Respondent agrees that it will continually remain in compliance with the provisions of the INA and its implementing regulations found at 20 C.F.R. Part 655.
- (17) The parties agree to bear their own costs, attorney fees and other expenses incurred in connection with the above-captioned claim, including but not limited to, all costs referenced in the Equal Access to Justice Act, as amended.

The Rules of Practice and Procedure for Administrative Hearings for the Office of Administrative Law Judges found at 29 C.F.R. Part 18 are applicable to the instant proceeding. 20 C.F.R. §§655.825(a) requires that an administrative law judge determine whether a settlement

is in the best interests of the parties by reviewing factors including the nature of the proceeding, the requirements of the public interest, and the representations of the parties.

The undersigned, having reviewed the Settlement Agreement and all of the above-mentioned factors, concludes that this settlement is in the best interests of all the parties. Accordingly;

### **ORDER**

It is hereby **ORDERED** that:

- (1) the terms and conditions of the abovementioned Settlement Agreement and Consent Findings are hereby **APPROVED** pursuant to the provisions of 29 C.F.R. §§507.840 and the terms therein are incorporated by reference into this order;
- (2) the Settlement Agreement and Order shall have the same force and effect as an order made at a full hearing;
- (3) the entire record upon which any order entered into in conformance with this agreement shall consist of the Administrator's determination, Respondent's request for a hearing and this determination;
- (4) any further procedural steps before this office and any right to contest the validity of the Settlement Agreement and this Order of Approval shall be waived by the parties;
- (5) the Settlement and terms herein this Order of Approval, shall become immediately effective upon issuance of this Order; and;
- (6) the fees, costs and expenses incurred in connection with all stages of this proceeding (including but not limited to attorney's fees which may be available under the Equal Access to Justice Act, as amended) shall be borne by each individual attorney.

**IT IS FURTHER ORDERED** that this matter is hereby dismissed with prejudice.

**A**

GERALD M. TIERNEY  
Administrative Law Judge